



411 Seventh Avenue
Mail Drop 16-4
Pittsburgh, PA 15219

Tel 412-393-1541
Fax 412-393-1418
gjack@duqlight.com

Gary A. Jack
Assistant General Counsel

July 28, 2011

VIA E-FILING

Ms. Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

**Re: Notice of Reconsideration:
Interim Guidelines for Eligible Customer Lists;
PPL Electric Utilities Corporation Retail Markets;
Petition of Duquesne Light Company for Approval of Default Service
Plan for the Period January 1, 2011 through May 31, 2013**

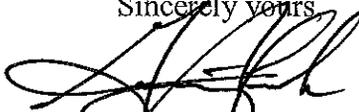
Docket Nos. M-2010-2183412, M-2009-2104271, P-2009-2135500

Dear Secretary Chiavetta:

Enclosed for filing are Duquesne Light Company's Reply Comments in the above-referenced proceeding.

If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Gary A. Jack

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Duquesne Light Company for :
 Approval of Default Service Plan for the : Docket Nos. P-2009-2135500
 Period from January 1, 2011 Through : M-2010-2183412
 May 31, 2013 : M-2009-2104271

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the reply comments of Duquesne Light Company in the above-referenced proceeding have been served upon the following persons, in the manner indicated, in accordance with the requirements of § 1.54 (relating to service by a participant):

VIA FIRST-CLASS MAIL AND/OR E-MAIL

<p>Sharon E. Webb, Esquire Office of Small Business Advocate Suite 1102, Commerce Building 300 North Second Street Harrisburg, PA 17101 Phone: (717) 783-2525 Fax: (717) 783-2831 swebb@state.pa.us</p>	<p>Charles Daniel Shields, Esquire PA Public Utility Commission Office of Trial Staff 400 North Street, 2nd Floor Commonwealth Keystone Building P.O. Box 3265 Harrisburg, PA 17105-3265 Phone: (717) 783-6151 Fax: (717) 772-2677 chshields@state.pa.us</p>
<p>Tanya J. McCloskey, Esquire Candis A. Tunilo, Esquire Dianne E. Dusman, Esquire Office of Consumer Advocate 555 Walnut Street 5th Floor, Forum Place Harrisburg, PA 17101-1923 Phone: (717) 783-5048 Fax: (717) 783-7152 tmccloskey@paoca.org ddusman@paoca.org ctunilo@paoca.org</p>	<p>Pamela C. Polacek, Esquire Carl J. Zwick, Esquire McNeese, Wallace & Nurick LLC 100 Pine Street P.O. Box 1166 Harrisburg, PA 17108-1166 Phone: (717) 232-8000 Fax: (717) 237-5300 ppolacek@mwn.com czwick@mwn.com</p>
<p>Theodore S. Robinson, Esquire Citizen Power 2121 Murray Avenue Pittsburgh, PA 15217 Phone: (412) 421-7029 Fax: (412) 421-6162</p>	<p>Gary A. Jeffries, Esquire Dominion Retail, Inc. 501 Martindale Street, Suite 400 Pittsburgh, PA 15212-5817 Phone: (412) 237-4729 Fax: (412) 237-4782</p>

<p>Robinson@citizenpower.com Christopher A. Lewis, Esquire Christopher R. Sharp, Esquire Melanie J. Tambolas, Esquire Blank Rome LLP One Logan Square 130 North 18th Street Philadelphia, PA 19103-6998 Phone: (215) 569-5450 Fax: (215) 832-5450 Lewis@blankrome.com Sharp@blankrome.com Tambolas@blankrome.com</p>	<p>Gary.A.Jeffries@dom.com Mark Hayden, Esquire FirstEnergy Solutions 76 South Main Street Akron, OH 44308 Phone: (330) 761-7735 Fax: (330) 384-3875 haydenm@firstenergycorp.com</p>
<p>Todd S. Stewart, Esquire Hawke McKeon & Sniscak LLP 100 North Tenth Street P.O. Box 1778 Harrisburg PA 17105 Phone: (717) 236-1300 Fax: (717) 236-4841 tsstewart@hmslegal.com</p>	<p>Brian R. Greene, Esquire SeltzerGreene, PLC 707 East Main Street, Suite 1025 Richmond, VA 23219 Phone: (804) 672-4542 Fax: (804) 672-4540 bgreene@seltzergreene.com</p>
<p>Renardo L. Hicks, Esquire Judith D. Cassel, Esquire Stevens & Lee 17 North Second Street 16th Floor Harrisburg, PA 17101 Phone: (717) 255-7364 Fax: (610) 988-0851 rlh@stevenslee.com</p>	<p>Anthony E. Gay, Esquire Michael S. Swerling, Esquire Exelon Business Service Company 2301 Market Street P.O. Box 8699 Philadelphia, PA 19101 Phone: (215) 841-4635 Fax: (215) 568-3389 Anthony.gay@exeloncorp.ccom Michael.swerling@exeloncrop.com</p>
<p>Donna M. J. Clark, Esquire Energy Association of Pennsylvania 800 N. Third Street, Suite 205 Harrisburg, PA 17102 Phone: (717) 901-0631 dclark@energypa.org</p>	<p>Laurie L. Baughman, Esquire Elizabeth R. Marx, Esquire PCADV 3605 Vartan Way Suite 101 Harrisburg, PA 17110 Phone: (717) 671-4767 Fax: (717) 671-5542 llb@pcadv.org erm@pcadv.org</p>
<p>Craig G. Goodman, Esquire Stacey Rantala Director, Regulatory Services National Energy Marketers Association</p>	<p>Amy M. Klodowski, Esquire 800 Cabin Hill Drive Greensburg, PA 15601 Phone: (724) 838-6765</p>

<p>3333 K Street, NW, Suite 110 Washington, DC 20007 Tel: (202) 333-3288 Fax: (202) 333-3266 cgoodman@energymarketers.com srantala@energymarketers.com</p>	<p>Fax (724) 830-7737 aklodow@firstenergycorp.com</p>
<p>Tori L. Giesler, Esquire FirstEnergy Service Company 2800 Pottsville Pike P.O. Box 16001 Reading, PA 19612 Phone (921-6658 tgiesler@firstenergycorp.com</p>	<p>Daniel Clearfield, Esquire Deanne O'Dell, Esquire Eckert Seamans Cherin & Mellot LLC 213 Market Street, 8th Floor Harrisburg, PA 17108 Phone: (717) 237-6000 dclearfield@eckertseamans.com dodell@eckertseamans.com</p>
<p>Paul E. Russell, Esquire PPL Electric Utilities Two North Ninth Street Allentown, PA 18108 perussel@pplweb.com</p>	<p>Todd S. Stewart, Esquire Hawke McKeon & Sniscak LLP 100 North Tenth Street Harrisburg, PA 17101 (717) 236-1300 tsstewart@hmslegal.com</p>
<p>Harry S. Geller, Esquire Patrick M. Cicero, Esquire Julie George, Esquire 118 Locust Street Harrisburg, PA 17101 (717) 236-9486 pulp@palegalaid.net</p>	<p>Michael A. Gruin 17 N. 2nd Street, 16th Floor Harrisburg, PA 17101 (717) 255-7365 mag@stevenslee.com</p>
<p>Frank Cavila, III Strategic Communications, LLC 3532 James Street, Suite 106 Syracuse, New York 13206</p>	<p>David B. MacGregor, Esquire Post & Schell, P.C Four Penn Center 1600 John F. Kennedy Boulevard Philadelphia, PA 19103 (215) 587-1197 dmacgregor@postschell.com</p>
<p>Michael W. Hassell, Esquire Jessica R. Rogers, Esquire Post & Schell, P.C. 17 North Second Street, 12th Floor Harrisburg, PA 17101 (717) 731-1970 mhassell@postschell.com jrogers@postschell.com</p>	

A handwritten signature in black ink, appearing to read "G. Jack", written over a horizontal line.

Gary A. Jack

Assistant General Counsel

411 Seventh Avenue, 16th Floor

Pittsburgh, PA 15219

412-393-1541 (phone)/412-393-1418 (fax)

gjack@duqlight.com

Dated July 28, 2011

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Interim Guidelines for Eligible Customer Lists	:	Docket Nos. M-2010-2183412
	:	
PPL Electric Utilities Corporation Retail Markets	:	M-2009-2104271
	:	
Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2011 through May 31, 2013	:	P-2009-2135500
	:	

**REPLY COMMENTS OF
DUQUESNE LIGHT COMPANY**

I. Introduction

Duquesne Light Company (“Duquesne” or “Company”) submits the following reply comments in response to the comments filed in the above-captioned proceeding.

II. Reply Comments

Opt-In Process

Duquesne agrees with and supports the comments filed by Citizens Electric Company and Wellsboro Electric Company (“Citizens/Wellsboro”), the Office of Consumer Advocate (“OCA”), the Industrial Customer Groups (“Industrials”), Pennsylvania Utility Law Project (“PULP”) and the Pennsylvania Coalition Against Domestic Violence (“PCADV”) regarding using an opt-in process opposed to the current opt-out process for providing customer information. Duquesne reiterates its position that the Commission should consider the opt-in process. The arguments raised by Citizens/Wellsboro, Industrials, PULP and PCADV show the

benefits of an opt-in process, such as the importance of customers understanding what information is being released and affirmatively consenting to such a disclosure. See Citizens/Wellsboro Comments at 4; Industrials Comments at 4; PULP Comments at 13-14; PCADV Comments at 13-14. The OCA provides an alternative approach that accepts the opt-out process as long as the Eligible Customer List (“ECL”) contains more limited elements¹ and as long as customers have the ability to restrict all information on even the more limited ECL. OCA Comments at 20. Duquesne could support this alternative on the elements but believes that consumption, at least for C&I customers, not be included due to competitive concerns (unless they specifically elect that information to be distributed). Duquesne raised in its comments the need to focus between primary and secondary information release.

Limitation on Information Provided in the ECL

Duquesne supports the comments filed by the Industrials on the sensitivity of customer information. The Industrials noted the harm that could result from competitively sensitive data such as usage or load data being released. In their comments, the Industrials noted the National Institute of Standard and Technology Draft Report on Smart Grid Cyber Security Strategy and Requirements, and highlighted concerns about smart meter technology and competitively sensitive information in that the frequent meter readings could lead to knowledge being gained about specific equipment usage or other internal business processes. Industrials’ Comments at 5. In another example, the Industrials stated that because some holders of EGS licenses are energy

¹ The OCA recommends twelve (12) minimum elements: ECL Revision Date, Customer Account Number, Customer Name, Service Address, Billing Address, Tariff Rate Class and Schedule, Rate Subclass/Rate Subcode (if available), Meter Read Cycle, Load Profile Group per Tariff, POLR/Shopping Status (Y or N), Monthly Consumption (each of 12 months) (KWH)(if available), Interval Meter (Y or N). OCA Comments at 15.

services affiliates of end users in Pennsylvania, there is a risk that an EGS could use an ECL in order to obtain information about competitors of its affiliate. *Id.*

The OCA also recommended limiting the information to be included on the ECL for residential customers, and included a list of minimum elements. Although OCA's list of minimum elements is not as limited as Duquesne believes it should be,² Duquesne agrees with the concept that the ECL should not include all the items that the interim guidelines proposed. As Duquesne stated above, it would support OCA's limited ECL if consumption data was removed from the list. Accordingly, Duquesne reiterates its concern that customers who agree to release their primary information (such as name, account number, rate class, service address, billing address) do not realize that EGSs will also be receiving selective information such as peak load contribution, load factor, and monthly demands. Since some of this is competitively sensitive information for industrial and commercial customers, it should not be contained on the ECL.

Ability to Restrict Release of All Information

Duquesne notes that all but one EGS supported the customer's ability to restrict the release of all of their information.³ The EDCs and consumer groups that filed comments also supported the notion that customers have the right to restrict the release of all of their

² Duquesne recommended two groupings of customer information – primary and secondary. The primary information would be the customer name, account number, rate class and sub-class, service address and billing address. The secondary information would be the more detailed information such as the peak load contribution, load factor, loss factor and monthly on-peak and off-peak demands. Duquesne Comments at 8.

³ FES did not share the other EGSs' view that customers should be able to restrict the release of all information; on the contrary, FES' view is that the PA Code does not give customers the right to restrict all information and believes the Commission should continue with the parameters set forth in the November 12 Order. FES Comments at 3-4.

information. Given this broad support, Duquesne recommends that the Commission adopt the provision to allow customers to restrict the release of all information, if they choose.

Opt-out Process is Not Necessary

Duquesne notes the arguments posed by several EGSs on why the opt-out process is so important to them. The Retail Energy Supply Association (“RESA”) opposes altering the opt-out process and states that opt-out is “fundamentally necessary to ensure a proper functioning competitive retail market as required by the Public Utility Code.” RESA Comments at 6.

RESA also argues that the information on the ECL is not just used for marketing purposes – it enables EGSs to complete the process of enrolling a customer and developing accurate pricing offers for customers. Without access to such information – the process of switching a customer to an EGS will be extremely impaired. *Id.* Duquesne respectfully disagrees. Based on customer responses, we believe it has been an issue with customers who wonder why they are receiving marketing materials, door to door visits, and telemarketing calls when they wanted non-disclosure of their customer information. This has caused known confusion to our customers who thought they opted out of such disclosure. As the Industrials note in their comments, a customer may not understand the importance of restricting this data because they are responsible for bill processing, not energy management – and such a failure to opt-out under these circumstances cannot be considered consent. Industrials’ Comments at 4. Duquesne believes that an opt-in process can ensure a proper functioning competitive retail market under the Public Utility Code. EGSs can request the information needed to process enrollments and pricing offers by requesting the information needed directly from the customer or through the EDC, with the customer’s affirmative consent to release the information. Duquesne believes that EGSs can

obtain the information they need through a customer opt-in process and that opt-in is the best method to ensure that customers understand their election and the information they are releasing.

III. Conclusion

Duquesne respectfully requests that the Commission approve the option for customers to choose whether they wish to release all or some of their information on the ECL and that the Commission consider adopting an opt-in process for release of customer information, opposed to an opt-out process. Duquesne Light Company thanks the Commission for the opportunity to file reply comments on this matter.

Respectfully Submitted,



Gary A. Jack, Esq.
Kelly L. Geer, Esq.
Duquesne Light Company
411 Seventh Avenue, 16-1
Pittsburgh, PA 15219
412.393.1541
gjack@duqlight.com
kgeer@duqlight.com

Dated: July 28, 2011